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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 SONYA VALENZUELA, individually and
12 on behalf of all other similarly situated,

13 Plaintiff,

14 v.

15 HOMAGE, LLC, an Ohio entity d/b/a
HOMAGE.COM,

16 Defendants.

Case No. 8:23-cv-01601-JWH-AS
Judge: Hon. John W. Holcomb

**NOTICE OF DISMISSAL WITH
PREJUDICE PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 41(a)(1)(A)(i)**

1 TO THE COURT, CLERK AND ALL PARTIES OF RECORD, please take
 2 notice that Plaintiff Sonya Valenzuela (“Plaintiff”) hereby dismisses the instant action
 3 against Defendant Homage, LLC (“Defendant”) pursuant to Rule 41(a)(1)(A)(i) of the
 4 Federal Rules of Civil Procedure *with prejudice* as to the Plaintiff’s individual claims,
 5 and *without prejudice* as to the putative class.

6 Pursuant to Rule 23(e), “the district court should inquire into possible prejudice
 7 from (1) class members’ possible reliance on the filing of the action if they are likely to
 8 know of it either because of publicity or other circumstances, (2) lack of adequate time
 9 for class members to file other actions, because of a rapidly approaching statute of
 10 limitations, (3) any settlement or concession of class interests made by the class
 11 representative or counsel in order to further their own interests.” *Diaz v. Trust*
 12 *Territory of the Pacific Islands*, 876 F.2d 1401, 1408 (9th Cir. 1989).

13 In this instance, the *Diaz* factors weigh in favor of dismissal of Plaintiff’s
 14 individual claims with prejudice. First, it is the Plaintiff’s counsel’s understanding that
 15 this action has not been publicized in any way and as such, the putative class members
 16 are highly unlikely to have knowledge of it, or to have relied upon it in any way.
 17 Similarly, Plaintiff’s counsel is unaware of any other circumstances that may have led
 18 to the putative class’s knowledge of, or reliance upon, this action.

19 Second, the statute of limitations in this action is not approaching. Plaintiff’s
 20 claims arose in March 2023 and as such, based on the four-year statute of limitations
 21 alleged in this action, the statute of limitations shall not run until March 2027. As such,
 22 the rights of the putative class are preserved by the solely individual dismissal of
 23 Plaintiff’s claims with prejudice.

24 Lastly, Plaintiff and her counsel made no settlement or concession of class
 25 interests in order to resolve Plaintiff’s individual claims. Indeed, the resolution reached
 26 between the Parties does not address, affect, or change the putative class’s rights or
 27 claims in any manner.

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1 An evaluation of the foregoing *Diaz* factors weigh in favor of dismissal of
2 Plaintiff's individual claims with prejudice, and dismissal of the putative class's claims
3 without prejudice.

4 Respectfully submitted,

5 Dated: October 12, 2023

6 PACIFIC TRIAL ATTORNEYS, APC

7 By: /s/ Scott J. Ferrell
8 Scott. J. Ferrell
9 Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on October 12, 2023, I electronically filed the foregoing **NOTICE OF DISMISSAL WITH PREJUDICE PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 41(a)(1)(A)(i)** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing via electronic mail to all counsel of record.

/s/ Scott J. Ferrell
Scott J. Ferrell